



Senate Bill 828

4th Amendment Protection Act

Fact Sheet

Background:

The Fourth Amendment to the United States Constitution states: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” All Americans, including over 38 million Californians, cannot reasonably be considered suspicious simply for making or receiving telephone calls. The NSA’s sweeping seizure of Californians’ data is an “unreasonable seizure” by any definition of the term. Recently, a federal judge declared the NSA’s blanket phone surveillance program unconstitutional, calling the program “near Orwellian.”

Issue:

Over the last seven years, the National Security Agency (NSA) has collected phone record data on every telephone call made or received by every American. Media articles also state the NSA’s surveillance program on Americans extends to not just phone records, but also all types of electronic data, including emails, text messages and information stored on Americans’ smart phones.

To collect electronic and metadata information, the NSA sometimes relies upon services provided by the state. In order to prevent taxpayers’ money from going towards violating their own rights, this bill would ban state agencies from giving any material support, participation or assistance to any federal agency to collect electronic or metadata of any person, unless there has been a warrant issued that specifically describes the person, place and thing to be searched or seized.

This bill is similar in concept to the Trust Act, which the legislature passed last year. The Trust Act prohibited local officials from cooperating with federal immigration officials when it came to ICE detention holds.

Proposal:

This bill would make it the clear policy of the state to refuse compliance with requests from a federal agency or employee of a federal agency to collect electronically stored information or metadata of any person if the state has actual knowledge that the request constitutes an illegal or unconstitutional collection of electronically stored information or metadata.

Support:

ACLU of California
Bill of Rights Defense Committee
California Attorneys for Criminal Justice
The Consumer Federation of California
Media Alliance
Neighborhood Unitarian Universalist Church,
Pasadena, CA
Pacifica Peace People
Restore the Fourth
Restore the Fourth SF
San Francisco 99% Coalition
Tenth Amendment Center

Opposition:

None

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